

## **Remarks**

Claims 1-20 are pending in the application. Claims 18 and 19 are allowed. Claims 1-7, 11-17 and 20 are rejected. Claims 8-10 are allowable.

Claim 11 is objected to. Claim 11 has been amended to define  $E_i(t)$  as a ‘credit counter.’

Claim 18 is objected to because, as the Examiner states, “the phrase ‘configured to’ ... is not a positive recitation.” However, this is clearly not the case. MPEP 2111.04 states (with emphasis added):

“The determination of whether each of these clauses [*e.g.*, ‘adapted to,’ ‘adapted for,’ ‘wherein’ and ‘whereby’ clauses, which in this case are identical to the claimed ‘configured to’ clauses] is a limitation in a claim depends on the specific facts of the case. In *Hoffer v. Microsoft Corp.*, 405 F.3d 1326, 1329, 74 USPQ2d 1481, 1483 (Fed. Cir. 2005), the court held that when a “whereby” clause states a condition that is material to patentability, it cannot be ignored in order to change the substance of the invention.’ *Id.*”

In claim 18, each of the claimed ‘configured to’ clauses state conditions that are material to patentability and, therefore, cannot be ignored. Furthermore, this means that they *must* be considered positive limitations, contrary to the Examiner’s objection. Applicants respectfully request that the Examiner withdraw this objection.

Claim 12 is rejected under 35 U.S.C. 112, second paragraph. Line 3 of claim 12 has been amended to provide antecedent basis for the limitation “the number of time units” recited in line 5.

The limitations of allowable claim 8 have been incorporated into independent claims 1 and 20.

It is believed that this application is now in condition for allowance. A notice to this effect is respectfully requested. Should further questions arise concerning this application, the Examiner is invited to call Applicants’ attorney at the number listed below. Please charge any shortage in fees due in connection with the filing of this paper to Deposit Account 50-0749.

Respectfully submitted,  
Mitsubishi Electric Research Laboratories, Inc.

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